

EXHIBIT 3

0 01

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF WEST VIRGINIA
4 AT CHARLESTON

5 RE: ETHICON, INC., PELVIC,) Master File No.
6 REPAIR SYSTEM PRODUCTS) 2:12-MD-02327
7 REPAIR SYSTEM PRODUCTS) JOSEPH R. GOODWIN
8 LIABILITY LITIGATION) U.S. DISTRICT JUDGE
9 _____)

10 THIS DOCUMENT RELATES TO THE
11 FOLLOWING CASES IN THE WAVE 1
12 OF MDL 200:
13

14 TINA and KENNETH MORROW,) Case No.
15 Plaintiffs,) 2:12-cv-00378
16 vs.)
17 ETHICON, INC., ET AL.,)
18 Defendants.)
19 _____/

20 VIDEOTAPED DEPOSITION OF NATHAN W. GOODYEAR, M.D.

21

22 March 4, 2016
23 8:15 a.m. to 12:37 p.m.

24

TRACY IMAGING
KNOXVILLE, TENNESSEE

25

26 Michele Faconti, RPR, LCR (667)
27
28

1 A. Sure. As I would anytime, I go back and
2 research some things.

3 Q. All right. What did you research last
4 night?

5 A. Researched basically -- there was great
6 debate about erosion rate quoted. And so I came
7 across, again, just an example of some of the
8 literature available at that time that helped to
9 form my opinion of the 3 to 5 percent erosion rate.
10 Was a proven study out of 2007 looking at -- it was
11 a multicenters trial of Prolift implantation and
12 they found their erosion rate to be 4.7 percent.

13 Q. 4.7 percent. And do you have --

14 A. I printed it out.

15 Q. And so this is research you did?

16 A. Not research that I did. It was research
17 that was published that I -- was used as a part of
18 my --

19 Q. Listen to my question. This was research
20 you did last night after I asked you a question to
21 try to find some research to help you respond?

22 A. It was a study and range that was similar
23 to what was available at the time that I made that.

24 Q. Listen to my question, please. You left

1 Q. No.

2 A. Okay. Sorry.

3 Q. Because I asked you yesterday and you said
4 that you were not.

5 MR. KOTT: Object to that.

6 THE WITNESS: You did not ask if I was a
7 member of ACOG.

8 BY MS. MOORE:

9 Q. I'll tell you how I asked, I asked if you
10 were a member of any of the professional societies,
11 and you said no.

12 A. Then that slipped. I am a member of ACOG.

13 Q. I'm looking at your two-page CV, right?
14 This is it, two pages?

15 A. Yeah, that's what I gave you yesterday.
16 Actually, it may be three. But, okay.

17 Q. If there's another page, I want to see it.

18 A. If that's what you got, that's what I gave
19 you so --

20 Q. All right. And --

21 A. I've always been a member of ACOG. I have
22 to be a member of ACOG. I just missed that.

23 Q. Okay. Do you --

24 A. When you referenced that question, I

1 about.

2 THE WITNESS: Not as it relates to my
3 testimony, no.

4 BY MS. MOORE:

5 Q. Okay. Let's see. So -- now, let me just
6 make sure I understand. When did you have erosion
7 rates of 15 to 20 percent? Was it in -- now it's
8 2008 -- not until 2008 -- everything looked good
9 until 2008?

10 MR. KOTT: Object to the form.

11 THE WITNESS: You're asking me for a
12 review of -- from 2016 to that time frame, and
13 I'm giving you a range of time as I referenced
14 initially 2007 as a reference to that
15 conference. And that conference was actually
16 in 2008, the one that I attended. And so as I
17 referenced the speaker, referencing a 1 percent
18 erosion rate, and my conversation with my
19 colleague to my left, that that was a
20 difference.

21 So when you asked me to identify a time
22 point, though that's hard to identify a time
23 pointed, because I never sat down and said,
24 aha, I have 15 to 20 percent. Okay. I was

1 giving you a range of when I started to look at
2 my rates compared to what was published and
3 what I feel to be not correct publication of
4 that material by Ethicon.

5 BY MS. MOORE:

6 Q. And were your erosion rates correct?

7 A. Were my erosion rates?

8 Q. Correct.

9 A. Well, at that time Ethicon was promoting a
10 1 percent erosion rate per the expert.

11 Q. I'm talking about yours.

12 A. My erosion rates had actually turned out
13 to be what is supported in the literature currently.

14 Q. So they were lower?

15 A. No, I didn't say that. I said -- you're
16 asking -- what I quoted was 3 to 5 percent, which
17 was guided by Ethicon in the literature available at
18 the time.

19 Q. Okay.

20 MR. KOTT: Please quit interrupting the
21 witness.

22 BY MS. MOORE:

23 Q. I apologize.

24 A. And I told you my erosion rate was 15 to

1 A. Yeah. Spring skiing.

2 Q. So --

3 A. We went skiing.

4 Q. So sometime you were skiing, and it was on
5 that trip or right before that trip that you started
6 having concerns about your erosion rate?

7 A. As I've mentioned repetitively, is that at
8 the round table is where they were quoting very,
9 very low erosion rates, of which I was not seeing,
10 of which I would then speak to a colleague on my
11 left and they would verify they were not seeing the
12 same erosion rates. That process started. I
13 started to question.

14 Q. But the erosion rates that were being
15 discussed by the Ethicon presenter were not the type
16 of erosion rates that you were seeing, you said it
17 was around the 15 to 20 percent?

18 A. When I started to formulate that question,
19 when you asked me for a date and a percentage,
20 that's what I told you, yes.

21 Q. It was around --

22 A. Fifteen to 20 percent.

23 Q. -- 15 to 20 percent. And, let's see -- so
24 what did you do with your concerns? Did you express

1 them to Ethicon?

2 A. I -- excuse me, I expressed them when I
3 returned to my practice, to my rep when he showed up
4 in my office.

5 Q. Other than -- and have you had a chance to
6 remember the rep's name?

A. No. I told you I don't remember his name.

8 Q. Do you remember anything at all about the
9 rep?

10 A. As I told you yesterday, I don't remember
11 anything at all about the rep. But it is very, very
12 normal for Ethicon to have reps, for every company
13 to have reps. They would visit me all the time.

14 Bard, AMS, pharmaceutical reps would come in all the
15 time. But that doesn't mean I remember their hair,
16 their skin color, their name, their background,
17 their family tree, etcetera.

18 Q. Move to strike as non-responsiveness.

19 So you approached the sales rep on one
20 occasion, several occasions? Were you upset,
21 frustrated, what did you do?

22 A. No, usually when he came into the OR.

23 Q. And he came in the OR and you said, I'm
24 not seeing your erosion rates that you're telling

1 MS. KOTT: Hang on a second.

2 VIDEOGRAPHER: I'm sorry.

3 (Off the record.)

4 VIDEOGRAPHER: We are on. 11:57 a.m.

5 EXAMINATION

6 BY MR. KOTT:

7 Q. Doctor, as you know, my name is Joseph
8 Kott. And one of the plaintiffs that I represent in
9 this matter, amongst others, is Mrs. Tina Morrow.

10 A. Correct.

11 Q. Okay. And also, so I speak clear, you
12 were her treating doctor for a period of time,
13 correct?

14 A. Correct.

15 Q. And also I retained you as an expert
16 witness in this matter too; is that correct?

17 A. Correct.

18 Q. An article came up this morning regarding
19 the percentages -- the percentages that you put in
20 your report -- excuse me, in your notes and the
21 record, for some reason, seem to be very much
22 discussed in this process; is that fair to say?

23 A. Fair to say.

24 Q. And you pulled up one such article that

1 shows about 4.7 percent, not about, actually shows a
2 4.7 percent of mesh exposure; is that correct?

3 A. That is correct.

4 Q. And that's labeled with Bates number --

5 A. Deposition Exhibit No. 55.

6 Q. Excuse me, I meant to say deposition
7 exhibit. And, Doctor, would you recite the title of
8 this article?

9 A. "Transvaginal Repair of Genital Prolapse:
10 Preliminary Results of a New Tension-free Vaginal
11 Mesh, Prolift Technique, a case series multicentric
12 study."

13 Q. Thank you. Now, do you recognize -- would
14 you please just put on the record the name of the
15 authors of this article?

16 A. I may mispronounce them. Fatton, Amblard,
17 Debondinance, Cosson, and Jacquetin.

18 Q. Did you recognize any of those names?

19 A. I recognize the last two.

20 Q. What about those names jogs your memory as
21 to knowing who they might be?

22 A. They were involved in the original TVM
23 procedures in France that originally came over and
24 came forth to the Ethicon Prolift product.